

PATENT

Appl. No. 09/516,052  
Amtd. dated August 13, 2003  
Amendment under 37 CFR 1.116 Expedited Procedure  
Examining Group

**REMARKS/ARGUMENTS**

**1. Status of the claims**

Claims 1, 21 and 47 are amended and claims 4-8, 10-20, 23-27, 30-34, 37-38, 40-41, 44-45, 50-53, 56-57, 59-62, 64-68 (all previously withdrawn by the Examiner) and 74-77 are canceled. Claims 1-3, 9, 21-22, 28-29, 35-36, 39, 42-43, 46-49, 54-55, 58, 63, 69, and 70-77 are pending and under consideration with entry of this Amendment.

Applicants believe that the Examiner inadvertently listed claim 46 as "withdrawn," when in fact claim 46 was part of elected Group I and is still pending. *See, Paper No. 10, page 2.*

**2. Objection to the claims**

The Examiner objected to claims 1, 21, 47 and 74-77 for failing to include a sequence identifier. As amended, the claims include the sequence identifier or are canceled. Accordingly, Applicants respectfully request withdrawal of the objection.

**3. Rejections Under 35 U.S.C. § 112, first paragraph**

Claims 74-77 were rejected as allegedly not meeting the written description or enablement requirements under 35 U.S.C. § 112, first paragraph. To expedite prosecution, Applicants have canceled the rejected claims. However, Applicants reserve the right to pursue the canceled claims in a continuation application.

**4. Obviousness-type double patenting rejection**

Claims 1-3, 9, 21-22, 28-29, 35-36, 39, 42-43, 47-49, 54-55, 58, 63, 69-73 and 74-77 were rejected under the judicially-created doctrine of obviousness-type double patenting in view of claims 1-34 of U.S. Patent No. 6,235,975. Applicants submit a terminal disclaimer with this Amendment. The terminal disclaimer disclaims the terminal portion of the term of a patent granted on the instant application over U.S. Patent No. 6,235,975. Applicants note that the filing

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of a terminal disclaimer to obviate a rejection based on non-statutory double patenting is not an admission of the propriety of the rejection. *See*, MPEP §804.02.

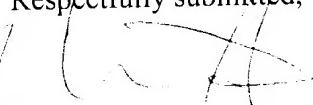
Claims 74-77 are canceled, thereby rendering the rejection of those claims moot.  
Applicants respectfully request withdrawal of the rejection.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,

  
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